

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

YOHAN WEBB,

Plaintiff,

vs.

STATE OF NEBRASKA, et al.

Defendants.

4:21CV3058

**MEMORANDUM
AND ORDER**

In a Memorandum and Order entered on May 19, 2021, the court found on initial review that Plaintiff's Complaint plausibly alleges that unknown staff members at the Lincoln Regional Center violated Plaintiff's right to due process by forcibly administering psychotropic medication, but that in all other respects Plaintiff's Complaint fails to state a claim upon which relief may be granted. The court ordered that the action would proceed to service of process against the State of Nebraska solely for the purpose of permitting Plaintiff to serve written interrogatories upon the State in order to determine the identity of the LRC staff members who are alleged to have violated his constitutional rights, but claims alleged against the State and other named defendants were dismissed.

On June 1, 2021, Plaintiff filed a motion to appeal the May 19th Memorandum and Order. (Filing 23.) A second motion to appeal was filed 2 days later. (Filing 24.) Because this is a non-final order,¹ it cannot be appealed unless "the district judge ...

¹ The court has not entered a judgment of dismissal as to any claim or party. *See* Fed. R. Civ. P. 54(b) ("When an action presents more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party claim—or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties

shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.” 28 U.S.C. § 1292(b). Here, no such “controlling question of law” is implicated, so Plaintiff’s motions to appeal will be denied.

IT IS THEREFORE ORDERED that Plaintiff’s motions to appeal (Filings 23, 24) are denied.

Dated this 8th day of June, 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge

and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.”).